

Docket No. R0042CON

AUG 11 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 In re Application of: Callas, et al. ) Group Art Unit: 3731  
Application No.: 10/705,652 )  
Filing Date: November 10, 2003 ) Examiner: Michael G. Mendoza  
10 For: ENDOSCOPIC SURGICAL ACCESS PORT )  
AND METHOD )  
Mail Stop Amendment )  
15 Commissioner for Patents )  
P.O. Box 1450 )  
Alexandria, VA 22313-1450 )

20 **TERMINAL DISCLAIMER UNDER 37 CFR §1.321(a)**

Petitioner, Origin Medsystems, Inc., a corporation of Delaware, having a principal place of business at 3200 Lakeside Drive, Bldg. B, 4th Floor, Santa Clara, CA 95054, in the County of Santa Clara and State of California, represents that it is the assignee of the entire right, title and  
25 interest in and to the invention disclosed in the above-referenced U.S. Patent Application No. 10/705,652.

Petitioner also represents that it is the assignee of the entire right, title and interest in and to the invention disclosed in co-pending U.S. Patent No. 6,811,546, filed August 25, 2000. U.S.  
30 Patent Application No. 10/705,652 is a continuation under 35 U.S.C. 120 of U.S. Patent No. 6,811,546, and the application and patent are commonly owned by Petitioner.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application which would  
35 extend beyond the expiration date of U.S. Patent No. 6,811,546.

Serial No.: 10/705,652  
Docket No.: R0042CON  
Terminal Disclaimer Dated August 11, 2005  
Responsive to the Office Action dated May 5, 2005

Petitioner hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,811,546. This Agreement runs with any patent granted on the above-identified application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full statutory term as defined in 35 USC §§ 154 to 156 and 173 of U.S. Patent No. 6,811,546, as presently shortened by any terminal disclaimer, in the event that U.S. Patent No. 6,811,546; expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

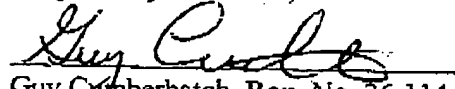
#### FEE PAYMENT

The necessary fee under 37 C.F.R. §1.20(d) is provided on the attached credit card authorization form.

If there are any questions, please call the undersigned.

Date: August 11, 2005

Respectfully submitted,

  
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